



California Regional Water Quality Control Board Lahontan Region



Linda S. Adams
Secretary of
Environmental Protection

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Arnold Schwarzenegger
Governor

MINUTES May 11-12, 2006

Regular Meeting

North Tahoe Conference Center
Lodgepole Room
8318 North Lake Blvd.
Kings Beach, CA 96143

Dr. Horne, Chair, called the meeting to order at 9:30 a.m. on May 11, 2006.

Board Members Present

John Brissenden, Hope Valley
Jim Chapman, Susanville
Jack Clarke, Apple Valley
Keith Dyas, Rosamond
Amy Horne, Ph.D., Truckee
Eric Sandel, Truckee
Susan J. Van Dam, Barstow

Board Members Absent

None

Legal Counsel

David Coupe, State Water Resources Control Board

Staff Present

Harold Singer, Executive Officer
Bob Dodds, Assistant Executive Officer
Chuck Curtis, Supervising WRCE
Lauri Kemper, Supervising WRCE
Cindi Mitton, Supervising WRCE
Laurie Applegate, Executive Assistant
Danelle Davidson, Office Technician
Robert Erlich, Environmental Scientist
Scott Ferguson, Senior WRCE

Mary Fiore-Wagner, Environmental Scientist
Bob Larsen, Environmental Scientist
Laurent Meillier, Engineering Geologist
Alan Miller, Senior WRCE
Eric Shay, Office Technician
Douglas Smith, Senior Engineering Geologist
Eric Taxer, WRCE
Tobi Tyler, WRCE

Addressing the Board

Morris L. Allen, P.E.
Harry Beaver, Concerned Citizens of the Future of America
Steven H. Blum, State Water Resources Control Board
Drew Briner, Briner Law Offices
Jan Brisco, Tahoe Lakefront Owners' Association

California Environmental Protection Agency

Recycled Paper



Logan Carnell
Pam Holten Chamblin
Hans Coffeng
Christine Davis
James R. Donahue, Caufield, Davies & Donahue, LLP
Rodney DuBois
Neil Eskind, North Tahoe Public Utility District
John Friedrich, League to Save Lake Tahoe
Gerri Grego
Earl Hagadorn
Mark D. Hudak, Carr, McClellan, Ingersoll, Thompson & Horn
Jordan Kahn, Tahoe Regional Planning Agency
Assemblyman Tim Leslie
Richard Okano
Ron Parr, DMB Highlands Group
Luke Ragan, Pacific Built
Steven Rogers, North Tahoe Public Utility District
Leon Schegg, North Tahoe Public Utility District
Dirk Schoonmaker
Bruce L. Shaffer, Lewis Brisbois Bisgaard & Smith, LLP
Ellie Walter
LaVoy "Bucky" Whittier
Lanny T. Winberry, DMB Highlands Group

1. **PUBLIC FORUM**

No one addressed the Board during the Public Forum.

ENFORCEMENT ACTION

2. ***Public Hearing – Consideration of an Administrative Civil Liability for C. Geoffrey and Christine Davis, Hans and Margaret Coffeng, and Pacific Built, Inc., for Violation of Waste Discharge Prohibitions Prescribed in the Water Quality Control Plan for the Lahontan Region, for the Unauthorized Discharge of Untreated Domestic Wastewater to Lands Below the Highwater Rim of Lake Tahoe on July 19, 2005 at 7770 and 7780 North Lake Boulevard, Kings Beach, Placer County Assessor’s Parcel Numbers 117-180-017 and –018, EDID No. 6A310408003***

Note: This item was transcribed by an electronic court reporter. To purchase a transcript, contact Peters Shorthand Reporting Corporation at (916) 362-2345. The item was also recorded.

Mr. Sandel declared a conflict of interest and did not participate in this item.



Chair Horne opened the public hearing and administered two oaths. The first oath was given to those persons intending to testify at the hearing. The second oath was given to witnesses who submitted written testimony in order to verify that their testimony was truthful.

Lahontan Water Board Staff – Testimony

Steven Blum, attorney representing Lahontan Water Board staff. Mr. Blum submitted into the record a letter from Assemblyman Tim Leslie dated April 27, 2006.

Eric Taxer, Water Resource Control Engineer, Lahontan Regional Board. Mr. Taxer submitted the following into the record: the Notice of Public Hearing for the meeting; the material under Item No. 2; the files of the California Regional Water Quality Control Board, Lahontan Region, concerning the matter including all written testimony and rebuttal testimony; the Water Quality Control Plan for the Lahontan Region, as amended; and his PowerPoint® presentation.

Chuck Curtis, Supervising Engineer with Lahontan Water Board staff, questioned Leon Schegg, Public Works Director for the North Tahoe Public Utility District.

Cross-Examination of Lahontan Water Board Staff and Witness

Drew Briner, attorney representing Pacific Built, cross-examined Eric Taxer and Leon Schegg.

Davis and Coffeng – Testimony

Mark Hudak, attorney representing Davis and Coffeng submitted his PowerPoint® presentation into the record.

Mr. Hudak questioned Christine Davis and Hans Coffeng.

Jim Donahue, co-counsel for the Coffengs, questioned Morris Allen, civil engineer. Mr. Allen's PowerPoint® presentation was submitted into the record.

Cross-Examination – Davis and Coffeng

Steven Blum, attorney representing Lahontan Water Board staff, cross-examined Morris Allen.

Drew Briner, attorney representing Pacific Built, cross-examined Morris Allen.

Note: The Board took a lunch break from noon to 1:15 p.m. Item 2 continued at 1:15 p.m.

Pacific Built – Testimony

Drew Briner, attorney representing Pacific Built. Mr. Briner submitted his PowerPoint® presentation into the record.



Mr. Briner questioned Earl Hagadorn, civil engineer; Luke Ragan, Vice President of Pacific Built; LaVoy "Bucky" Whittier, retired excavating contractor; and Rodney DuBois, civil engineer and general contractor.

Cross-Examination – Pacific Built

None.

Questions by Harold Singer, Executive Officer, Lahontan Regional Board

Mr. Singer asked questions of the following individuals:

Earl Hagadorn

Chuck Curtis, Supervising Engineer with Lahontan Water Board

Eric Taxer, Water Resource Control Engineer with Lahontan Water Board

Scott Ferguson, Senior Water Resource Control Engineer with Lahontan Water Board

Steven Rogers, General Manager, North Tahoe Public Utility District

Questions by Board Members

Board members asked questions of the following individuals:

Steven Rogers, General Manager, North Tahoe Public Utility District

Leon Schegg, Public Works Director, North Tahoe Public Utility District

Earl Hagadorn

Drew Briner, attorney representing Pacific Built

Chuck Curtis, Supervising Engineer with the Lahontan Water Board

Lauri Kemper, Supervising Engineer with the Lahontan Water Board

Eric Taxer, Water Resource Control Engineer with the Lahontan Water Board

Steven Blum, attorney representing Lahontan Water Board staff

David Coupe, attorney advising Lahontan Water Board

Mark Hudak, attorney representing Davis and Coffeng

Interested Parties' Comments

The following interested parties provided comments:

Assemblyman Tim Leslie

Pam Holten Chamblin

Jordan Kahn, Tahoe Regional Planning Agency

Neil Eskind, attorney for the North Tahoe Public Utility District (submitted proposed Motion to Assess Administrative Civil Liability into the record)

Jan Brisco, Executive Director for the Tahoe Lakefront Owners' Association (submitted written copy of her verbal presentation into the record)

Harry Beaver, Concerned Citizens of the Future of America

Dirk Schoonmaker

John Friedrich, League to Save Lake Tahoe

Richard Okano

Logan Carnell

Ellie Waller

Gerri Grego



Rebuttal – Pacific Built

Drew Briner, attorney representing Pacific Built, questioned LaVoy “Bucky” Whittier and Luke Ragan.

Rebuttal – Davis and Coffeng

Mark Hudak, attorney representing Davis and Coffeng, provided rebuttal.

James Donahue, co-counsel for the Coffengs, questioned Morris Allen, civil engineer.

Rebuttal – Lahontan Water Board Staff

Steven Blum, attorney representing Lahontan Water Board staff, provided rebuttal.

Chuck Curtis stated that in response to Mr. Singer’s questions, staff recalculated the volume of the discharge and found it to be approximately 56,000 gallons.

Robert Dodds, Assistant Executive Officer, revised staff’s recommendation to an assessment of \$325,000.

Note: The Board recessed for dinner at 4:45 p.m. and reconvened at 7:00 p.m. to resume consideration of Item 2.

Closing Statements

Drew Briner gave the closing statement on behalf of Pacific Built.

Mark Hudak gave the closing statement on behalf of Davis and Coffeng.

Steven Blum gave the closing statement on behalf of Lahontan Water Board staff.

Comments by David Coupe to the Lahontan Water Board

Mr. Coupe recommended the Board close the hearing and request that the prosecution team submit a new proposed order for the Board’s consideration at a future meeting that is sufficiently based on nonhearsay evidence in the record. He explained the Board could notice the item specifically for the purpose of deliberating on the new proposed order.

Public Hearing Closed – Motion to Continue Item to a Future Meeting

Chair Horne closed the public hearing.

Mr. Singer recommended the Board continue the item to a future meeting at which time the Board could consider a new order proposed by the prosecution team.

- **Motion:** Moved by Mr. Clarke and seconded by Mr. Dyas to continue the item to a scheduled date in the near future and to direct the prosecution team to come back with a proposed order supporting the facts.

In response to a question from Mr. Blum, Mr. Coupe clarified that the public hearing had been closed.



Board members discussed the motion. Mr. Chapman commented that he did not have an objection to continuing the item to a future meeting; however, he wanted the prosecution team to be aware that the Board had not yet deliberated on the matter. Chair Horne called for the vote.

Voting yes: Mr. Brissenden, Mr. Clarke, Mr. Dyas, Dr. Horne, Ms. Van Dam.
 Voting no: Mr. Chapman
 Previously recused: Mr. Sandel

- **Motion carried 5-1**

In response to a question from Mr. Briner, Mr. Coupe clarified that the Board Chair would decide whether designated parties would have the opportunity to comment on the new proposed order. Chair Horne stated that the designated parties would have the opportunity to comment on the new proposed order.

MINUTES

4. Minutes of the Regular Meeting of April 12-13, 2006 in Truckee, California

The April minutes were not completed in time to be considered by the Board.

5. ADOPTION OF THE UNCONTESTED CALENDAR

Items 6, 7 and 8 were considered on the uncontested calendar.

- **Motion:** Moved by Mr. Clarke, seconded by Mr. Sandel and **unanimously carried** to adopt Items 6, 7 and 8 on the uncontested calendar.

NEW WASTE DISCHARGE REQUIREMENT

6. Spalding Community Services District Sewage Evaporation Ponds, Lassen County

See Item 5 for Board action.

AMENDED WASTE DISCHARGE REQUIREMENTS

7. Heavenly Ski Resort, El Dorado and Alpine Counties, Board Order No. R6T-2003-0032A1

See Item 5 for Board action.

8. San Bernardino County Solid Waste Management Division; Victorville Class III Landfill, San Bernardino County, Board Order No. R6V-2004-0027A1

See Item 5 for Board action.



OTHER BUSINESS**9. Executive Officer's Report**

Mr. Singer discussed items from the May 2006 written report.

Mr. Singer gave an overview of the consolidated grants program process.

The Nevada Legislative Oversight Committee for the Tahoe Regional Planning Agency will be meeting in Sacramento the week of May 15. Mr. Singer has been invited to attend and discuss the strategy for implementation of the Tahoe TMDL and the policies and practices for regulating fuel reduction activities in the Tahoe Basin.

Staff representing Lahontan, the Tahoe Regional Planning Agency and the California Department of Forestry have been meeting to attempt to streamline the permit process for fuel reduction activities in the Tahoe Basin. Mr. Singer gave a progress report.

Mr. Singer described a proposed project at Northstar requiring 401 water quality certification and an exemption to a Basin Plan prohibition related to disturbance in the 100-year floodplain for an access road. He noted the Board previously delegated authority to him to grant these exemptions. He handed out a draft letter to Aaron Revere of Northstar Mountain Properties and described the process for granting the exemption. Mr. Singer noted his intent to sign the letter the following Monday if no objections are heard from the Board.

Dr. Horne noted she visited Squaw Valley on Earth Day and stopped by the Lahontan table. She described the watershed model being displayed by staff and noted its popularity with the children. Mr. Singer commented that the watershed model is a great outreach tool.

Regional Board staff held a public meeting in Hinkley in May regarding PG&E projects. Mr. Singer noted the informal meeting was well attended by the community. Ms. Van Dam commented that not all community members received the notice regarding the meeting. Mr. Singer noted he will ask staff to review the procedure used for notifying the community.

3. CLOSED SESSION

The Board met in closed session from 9:20 p.m. to 9:30 p.m. to discuss Item j.

The evening session recessed at 9:30 p.m.



Regular Meeting, Continued
8:30 a.m., May 12, 2006

Dr. Horne, Chair, called the meeting to order at 8:30 a.m. on May 12, 2006.
Board members present: John Brissenden, Jim Chapman, Jack Clarke, Keith Dyas, Eric Sandel and Susan Van Dam. Board members absent: None.

10. PUBLIC FORUM

No one addressed the Board during the Public Forum.

OTHER BUSINESS

11. Siller Ranch Development – Exemption to a Waste Discharge Prohibition Contained in the Water Quality Control Plan for the Lahontan Region, Placer County

Mr. Sandel declared a conflict of interest and did not participate in this item.

Tobi Tyler gave the staff presentation and answered questions from the Board. She recommended the Board adopt the Resolution granting the exemption with the changes recommended by staff in the late revision sheet.

Addressing the Board: Lanny T. Winberry, attorney for DMB Highlands Group (handout) and Ron Parr, DMB Highlands Group.

Board members reviewed slide no. 27 of Ms. Tyler's presentation "Summary of Staff's Conclusions". The Board discussed the meaning of the terms "public", "private", and "necessary for public recreation". Mr. Chapman suggested adding a definition in the future for the term "gated community" (fenced or closed off) when considering whether a project meets the exemption criteria. Lauri Kemper clarified staff's recommendation. Board members complimented Regional Board staff and the project proponent consultants for their work on the monitoring plan.

- **Motion:** Moved by Mr. Clarke and seconded by Mr. Dyas to adopt the Resolution granting the exemption with the amendments recommended by staff in the late revision sheet.

Voting yes: Mr. Chapman, Mr. Clarke, Mr. Dyas, Dr. Horne, Ms. Van Dam

Voting no: Mr. Brissenden

Previously recused: Mr. Sandel

- **Motion carried 5-1.**



12. Reports by Chair and Board Members

Ms. Van Dam complimented Cindi Mitton and Victorville staff for their prompt and thorough response to a phone call from a woman in Barstow who was concerned with the close proximity of septic tanks to the Mojave River.

Mr. Brissenden suggested that in the future, Board staff review all excavation projects, plans and permits as well as 1-800-USADIG issues. He recommended Board staff suggest that counties require building permits for piers. Mr. Brissenden asked for a future tour/workshop regarding the benefits of maintaining public access to trails, water bodies and waterways and commented that there is a need to provide further direction to staff on gated communities. Mr. Brissenden asked Regional Board staff to provide further information regarding a previous statement that six million gallons a day of sewage were infiltrating the ground in the North Tahoe Public Utility District area. Ms. Kemper noted further information would be provided to the Board.

Mr. Chapman complimented Dr. Horne on the process followed for the public hearing. He expressed appreciation for the time allotted for policy discussion. Mr. Chapman commented that he was pleased to see the adoption of the Spalding Community Services District waste discharge requirements. Mr. Chapman noted the need to map critical assets such as sewer lines and sewer mains and asked that a future agenda item be scheduled.

Dr. Horne gave a report regarding items discussed at the Water Quality Coordinating Committee meeting held in Sacramento on April 24-25, 2006. Dr. Horne handed out an e-mail message from Celeste Cantu regarding performance measures. She also noted the July 2006 Board meeting dates will need to be rescheduled.

13. ADJOURNMENT OF MEETING

With no further business to come before the Board, the meeting adjourned at 10:15 a.m. on May 12, 2006.

Original signed by:

Prepared by: _____ Adopted: June 14, 2006
Laurie Applegate, Executive Assistant

